

Atty. Dkt. No. 072827-0372

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Alan L. Mueller, et al.

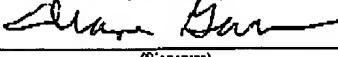
Title: Compounds Active at a Novel Site
on Receptor-Operated Calcium
Channels Useful for Treatment of
Neurological Disorders and
Diseases

Appl. No.: 10/797,355

Filing Date: March 9, 2004

Examiner: A. Pryor

Art Unit: 1616

CERTIFICATE OF FACSIMILE TRANSMISSION	
I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.	
DIANE GARCIA (Printed Name)	
	
(Signature)	
July 26, 2005 (Date of Deposit)	

TERMINAL DISCLAIMER

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

Your Petitioner, NPS Pharmaceuticals, Inc., having its principal place of business at 383 Colorow Drive Way, Salt Lake City, Utah 84108, represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 10/797,355, filed 2/23/2004, which is a continuation of co-pending U.S. Application No. 09/825,373 filed on April 2, 2001; which is a continuation of U.S. Application No. 09/186,341 filed November 4, 1998, now U.S. Patent No. 6,211,245; which is a continuation of U.S. Application No. 08/873,011, filed June 11, 1997, now abandoned; which is a continuation-in-part of U.S. Application No. 08/869,154, filed June 4, 1997, now abandoned; which is a continuation-in-part of U.S. Application No. 08/763,480, filed December 11, 1996, now U.S. Patent No. 6,017,965; which is a continuation-in-part of U.S. Application Ser. No. 08/663,013, filed June 7, 1996, now abandoned; which is a continuation-in-part of U.S. Application Ser. No. 08/485,038, filed June 7,

07/29/2005 CCHAU1 00000001 500872 10797355

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Atty. Dkt. No. 072827-0372

1995, now U.S. Patent No. 6,071,970; which is a continuation-in-part and a National Stage application of International Patent Application No. PCT/US94/12293 (WO 95/21612), filed October 26, 1994 and designating the United States; which is a continuation-in-part of U.S. Application Serial No. 08/288,668, filed August 9, 1994, now abandoned; which is a continuation-in-part of U.S. Application Ser. No. 08/194,210, filed February 8, 1994, now abandoned, all by virtue of an Assignment recorded on July 22, 1993 on Reel/Frame 6697/0470 with the United States Patent and Trademark Office Assignment Division, a copy of which is attached hereto as APPENDIX A; and which is a continuation-in-part of U.S. Serial No. 08/014,813, filed February 8, 1993, now abandoned, by virtue of an assignment recorded on June 17, 1994 on Reel/Frame 7007/0967, with the United States Patent and Trademark Office Assignment Division, a copy of which is also attached hereto as APPENDIX A.

Further, your Petitioner represents that it is the owner of U.S. Patent No. 6,211,245, which issued on April 3, 2001, U.S. Patent Application No. 09/186,341, filed November 4, 1998, which is a continuation of U.S. Application No. 08/873,011, filed June 11, 1997, now abandoned; which is a continuation-in-part of U.S. Application No. 08/869,154, filed June 4, 1997, now abandoned; which is a continuation-in-part of U.S. Application No. 08/763,480, filed December 11, 1996, now U.S. Patent No. 6,017,965; which is a continuation-in-part of U.S. Application Ser. No. 08/663,013, filed June 7, 1996, now abandoned; which is a continuation-in-part of U.S. Application Ser. No. 08/485,038, filed June 7, 1995, now U.S. Patent No. 6,071,970; which is a continuation-in-part and a National Stage application of International Patent Application No. PCT/US94/12293 (WO 95/21612), filed October 26, 1994 and designating the United States; which is a continuation-in-part of U.S. Application Serial No. 08/288,668, filed August 9, 1994, now abandoned, all by virtue of an Assignment recorded on July 22, 1993 on Reel/Frame 6697/0470 with the United States Patent and Trademark Office Assignment Division, a copy of which is attached hereto as APPENDIX A; and which is a continuation-in-part of U.S. Serial No. 08/014,813, filed February 8, 1993, now abandoned, by virtue of an assignment recorded on June 17, 1994 on Reel/Frame 7007/0967, with the United

Atty. Dkt. No. 072827-0372

States Patent and Trademark Office Assignment Division, a copy of which is also attached hereto as APPENDIX A.

Your Petitioner, NPS Pharmaceuticals, Inc., hereby disclaims the terminal part of the term of any patent granted on the above identified patent application which would extend beyond the full statutory term, as presently shortened by any terminal disclaimer, of U.S. Patent 6,211,245, and hereby agrees that any patent so granted on the above identified patent application shall be enforceable only for and during such period that the legal title to U.S. Patent 6,211,245 shall be the same as the legal title to any patent granted on the above identified patent application, this agreement to run with any patent granted on the above identified patent application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on the above identified patent application, prior to the full statutory term of U.S. Patent 6,211,245 as defined in 35 U.S.C. §§154-156 and 173, in the event that U.S. Patent 6,211,245 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of U.S. Patent 6,211,245 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on the above identified patent application that would extend beyond the present termination of U.S. Patent 6,211,245, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on the above identified patent application to the extent provided by law.

Atty. Dkt. No. 072827-0372

The undersigned, being the Attorney of Record for the above identified patent application, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignment attached at APPENDIX A, and to the best of his knowledge and belief, legal title to the above identified patent application and U.S. Patent 6,211,245 rests with Petitioners, NPS Pharmaceuticals, Inc.. The undersigned declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing there from.

Respectfully submitted,

Date July 26, 2005

By Barry Wilson

FOLEY & LARDNER LLP
Customer No. 33588
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Barry S. Wilson
Attorney for Applicant
Registration No. 39,431



(12) **United States Patent**
Mueller et al.

(10) Patent No.: US 6,211,245 B1
(45) Date of Patent: Apr. 3, 2001

(54) COMPOUNDS ACTIVE AT A NOVEL SITE
ON RECEPTOR-OPERATED CALCIUM
CHANNELS USEFUL FOR TREATMENT OF
NEUROLOGICAL DISORDERS AND
DISEASES

0 436 332	7/1991 (EP)
2 277 589	2/1976 (FR)
1 169 944	7/1967 (GB)
1 129 029	10/1968 (GB)
1 129 210	10/1968 (GB)
1134715	11/1968 (GB)
135926	12/1968 (GB)
300541	6/1974 (NL)
92/14709	9/1992 (WO)
93/04036	3/1993 (WO)
93/04041	3/1993 (WO)
93/04373	3/1993 (WO)
95/15959	6/1995 (WO)
95/21612	8/1995 (WO)
96/05818	2/1996 (WO)
96/40097	12/1996 (WO)
97/46511	12/1997 (WO)

(75) Inventors: Alan L. Mueller, Scott T. Moe, both
of Salt Lake City, UT (US)

(73) Assignee: NPS Pharmaceuticals, Inc., Salt Lake
City, UT (US)

(*) Notice: Subject to any disclaimer, the term of this
patent is extended or adjusted under 35
U.S.C. 154(b) by 0 days.

(21) Appl. No.: 09/186,341

(22) Filed: Nov. 4, 1998

Related U.S. Application Data

(63) Continuation of application No. 08/673,011, filed on Jun. 11, 1997, which is a continuation-in-part of application No. 08/869,154, filed on Jun. 4, 1997, now abandoned, which is a continuation-in-part of application No. 08/763,480, filed on Dec. 11, 1996, now Pat. No. 6,017,965, which is a continuation-in-part of application No. 08/663,013, filed on Jun. 7, 1996, now abandoned, which is a continuation-in-part of application No. 08/485,035, filed on Jun. 7, 1995, which is a continuation-in-part of application No. PCT/US94/12295, filed on Oct. 26, 1994, which is a continuation-in-part of application No. 08/288,668, filed on Aug. 9, 1994, now abandoned, which is a continuation-in-part of application No. 08/194,210, filed on Feb. 8, 1994, now abandoned, which is a continuation-in-part of application No. 08A014, 613, filed on Feb. 8, 1993, now abandoned.

(51) Int. Cl. 7 A61K 31/135; C07C 211/03

(52) U.S. Cl. 514/653; 514/654; 564/255;
564/360; 564/361; 564/363; 564/379

(58) Field of Search 564/355, 360,
564/361, 363, 379; 514/653, 654

(56) References Cited

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1 051 281	2/1959 (DE)
33 285	12/1964 (DE)
1 793 735	7/1973 (DE)
17 93 735	7/1973 (DE)
23 35 943	1/1975 (DE)
4 239 816	6/1994 (DE)
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(List continued on next page.)

Primary Examiner—Richard L. Raymond

(57)

ABSTRACT

Method and compositions for treating a patient having a neurological disease or disorder, such as stroke, head trauma, spinal cord injury, spinal cord ischemia, ischemia- or hypoxia-induced nerve cell damage, epilepsy, anxiety, neuropsychiatric or cognitive deficits due to ischemia or hypoxia such as those that frequently occur as a consequence of cardiac surgery under cardiopulmonary bypass, or neurodegenerative diseases such as Alzheimer's Disease, Huntington's Disease, Parkinson's Disease, or amyotrophic lateral sclerosis (ALS).

45 Claims, No Drawings

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17.

APPENDIX A

XXXXXX.XA

PAGE 20/52 * RCVD AT 7/26/2005 7:36:29 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/28 * DNIS:2738300 * CSID: * DURATION (mm:ss):25-08

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NO. 1757 P. 21



DATE: 07/05/94
TO:

N05A

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NORTH TOWER BUILDING, SUITE 10C35, WASHINGTON, D.C. 20231

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MUELLER, ALAN L. DOC DATE: 04/15/94

ASSIGNOR:
VANWAGENEN, BRADFORD C. DOC DATE: 04/27/94

ASSIGNOR:
DELMAR, ERIC G. DOC DATE: 04/27/94

ASSIGNOR:
BALANDRIN, MANUEL F. DOC DATE: 04/15/94

ASSIGNOR:
MOE, SCOTT T. DOC DATE: 04/15/94

ASSIGNOR:
ARTMAN, LINDA D. DOC DATE: 04/27/94

RECORDATION DATE: 06/17/94 NUMBER OF PAGES 005 REEL/FRAME 7007/0967

DIGEST : ASSIGNMENT OF ASSIGNORS INTEREST

ASSIGNEE:
NPS PHARMACEUTICALS, INC.
420 CHIPETA WAY
SUITE 240
SALT LAKE CITY, UT 84108

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NO. 1757 P. 22

7007/0967 PAGE 0002

SERIAL NUMBER 8-194210 FILING DATE 02/08/94
PATENT NUMBER ISSUE DATE 00/00/00

margaret LaSalle

EXAMINER/PARALEGAL
ASSIGNMENT BRANCH
ASSIGNMENT/CERTIFICATION SERVICES DIVISION

ASSIGNMENT

For valuable consideration, we, Alan L. Mueller of Salt Lake City, Utah; Bradford C. VanWagenen of Salt Lake City, Utah; Eric G. Delmar of Salt Lake City, Utah; Manuel E. Baldwin of Sandy, Utah; Scott T. Moe of Salt Lake City, Utah; and Linda D. Artman of Salt Lake City, Utah, hereby assign to NPS PHARMACEUTICALS, INC., a Delaware corporation having a place of business at Salt Lake City, Utah, and its successors and assigns (collectively hereinafter called "the Assignee"), the entire right, title and interest throughout the world in the inventions and improvements which are the subject of an application for United States Patent, Serial No. 08/194,210, filed on February 8, 1994 entitled COMPOUNDS ACTIVE AT A NOVEL SITE ON RECEPTOR OPERATED CALCIUM CHANNELS USEFUL FOR TREATMENT OF NEUROLOGICAL DISORDERS AND DISEASES, this assignment including said application, and any and all United States and foreign patents granted for any of said inventions or improvements, and the right to claim priority based on the filing date of said application under the International Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the European Patent Convention, and all other treaties of like purposes; and we authorize the Assignee to apply in all countries in our names or in its own name for patents and like rights of exclusion and for inventor's certificates for said inventions and improvements; and we agree for ourselves and our respective heirs, legal representatives and assigns, without further compensation to perform such lawful acts and to sign such further applications, assignments, Preliminary Statements and other lawful documents as the Assignee may reasonably request to effectuate fully this assignment.

IN WITNESS WHEREOF, I hereby set my hand and seal at Salt Lake City, Utah, this 19th day of April, 1994.

Alan L. Mueller L.S.
FIRST MIDDLE LAST

State of Utah :
ss.

Country of Salt Lake :

Before me this 19th day of April, 1994, personally appeared
Alan L. Mueller known to me to be the person whose name is subscribed
to the foregoing Assignment and acknowledged that he executed the same as his free act and
deed for the purposes therein contained.



NOTARY PUBLIC
SUZANNE J. ADDISON
Notary Public State of Utah
228 East First South Salt Lake City, Utah 84111
My Commission Expires 6/10/04

Suzanne J. Addison
Notary Public

FBI - O - L FILE NUMBER 8

JUL. 26. 2005 4:46PM FOLEY 8587926773

NO. 1757 P. 24

Patent

IN WITNESS WHEREOF, I hereto set my hand and seal at Salt Lake City, Utah, this
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Bradford C. Van Wagonen L.S.
FIRST MIDDLE LAST

State of Utah :

ss.

County of Salt Lake :

Before me this 27th day of April, 1994, personally appeared
Bradford C. Van Wagonen known to me to be the person whose name is subscribed
to the foregoing Assignment and acknowledged that he executed the same as his free act and
deed for the purposes therein contained.



Suzanne J. Addison
Notary Public

My commission expires:

8/21/94

REEL 1007 FRAME 96

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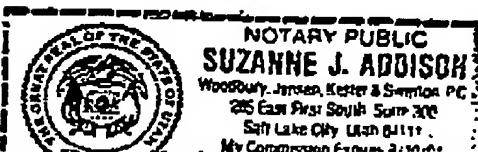
Eric B. DelMar L.S.
FIRST MIDDLE LAST

State of Utah :

ss.

County of Salt Lake :

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Suzanne J. Addison
Notary Public

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NO. 1757 P. 25

Patent

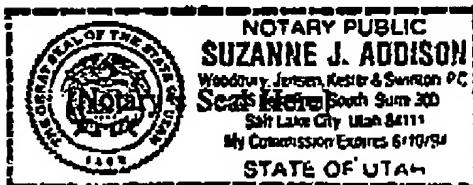
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Manuel F. Balandrin L.S.
FIRST MIDDLE LAST

State of Utah :
ss.
County of Salt Lake :

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Suzanne J. Addison
Notary Public



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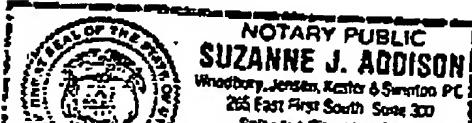
IN WITNESS WHEREOF, I hereto set my hand and seal at Salt Lake City, Utah, this
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Scott T. Moe L.S.
FIRST MIDDLE LAST

State of Utah :
ss.
County of Salt Lake :

Before me this 15th day of April, 1994, personally appeared
Scott T. Moe known to me to be the person whose name is subscribed
to the foregoing Assignment and acknowledged that he executed the same as his free act and
deed for the purposes therein contained.

Suzanne J. Addison
Notary Public



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NO. 1757 P. 26

25 Patent

IN WITNESS WHEREOF, I hereto set my hand and seal at Salt Lake City, Utah, this
27th day of April, 1994.

Linda D. Artman
L.S.
FIRST MIDDLE LAST

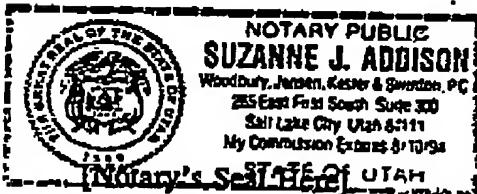
State of Utah

ss.

County of Salt Lake

ss.

Before me this 27th day of April, 1994, personally appeared
Linda D. Artman known to me to be the person whose name is subscribed
to the foregoing Assignment and acknowledged that he executed the same as his free act and
deed for the purposes therein contained.



Suzanne J. Addison
Notary Public

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MUELLER, ALAN L. DOC DATE: 04/15/94

ASSIGNOR:
VANWAGENEN, BRADFORD C. DOC DATE: 04/27/94

ASSIGNOR:
DELMAR, ERIC G. DOC DATE: 04/27/94

ASSIGNOR:
BALANDRIN, MANUEL F. DOC DATE: 04/15/94

ASSIGNOR:
MOE, SCOTT T. DOC DATE: 04/15/94

ASSIGNOR:
ARTMAN, LINDA D. DOC DATE: 04/27/94

RECORDATION DATE: 06/17/94 NUMBER OF PAGES 005 REEL/FRAME 7007/0967

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NO. 1757 P. 28
27.

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SERIAL NUMBER 8-194210 FILING DATE 02/08/94
PATENT NUMBER ISSUE DATE 00/00/00

Connie Gleeson

EXAMINER/PARALEGAL
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1 Alan L. Mueller 2 Bradford C. VanHagenen
 3 Eric G. Delmar 4 Manuel F. Balandrin
 5 Scott T. Moe 6 Linda D. Artman

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment
- Merger
- Security Agreement
- Change of Name
- Other _____

Execution Date: 19475 34346
April 15, 22, 27, 19944. Application number(s) or patent number(s): 08/194,210, filed February 8, 1994If this document is being filed together with a new application, the execution date of the application is 19475

5. Patent Application No.(s)

1 2 3 4 5
 6 7 8 9 10
 11 12 13 14 15
 16 17 18 19 20
 21 22 23 24 25
 26 27 28 29 30

Additional numbers attached? Yes No

6. Patent No.(s)

581 40.00

7. Total number of applications and patents involved:

REC'D 1007 FRM 967

7. Total fee (37 CFR 3.41) \$ 40.00 Enclosed Authorized to be charged to deposit account

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Steven M. Weiss

Name of Person Signing

Steven M. Weiss

Signature

June 17, 1994

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MUELLER, ALAN L.

DOC DATE: 05/18/93

RECORDATION DATE: 07/22/93 NUMBER OF PAGES 002 REEL/FRAME 6697/0470

DIGEST : ASSIGNMENT OF ASSIGNORS INTEREST

ASSIGNEE:

NPS PHARMACEUTICALS, INC.
420 CHIPETA WAY SALT LAKE CITY, UT 84108

SERIAL NUMBER 8-014813 FILING DATE 02/08/93
PATENT NUMBER ISSUE DATE 03/00/00

Margaret J. Aballe

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SERIAL NUMBER 8-014813 FILING DATE 02/08/93
PATENT NUMBER ISSUE DATE 00/00/00

P. Foster
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Alan L. Mueller

Additional name(s) of conveying party(ies) attached? Yes No

2. Nature of conveyance:

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 Security Agreement
 Other Merger
 Change of Name

Execution Date: May 18, 1993

Application number(s) or patent number(s): 08/014,813, filed February 8, 1993
If this document is being filed together with a new application, the execution date of the application is

A. Patent Application No(s).

B. Patent No(s).

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning documents should be mailed:

Name: Richard J. Warburg, Esq.

Internal Address: SAN DIEGO OFFICE

Street Address: 611 West Sixth Street

City: Los Angeles State: CA ZIP 90017

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 341): \$ 40.00

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A S S I G N M E N T

For valuable consideration, I, Alan L..... Mueller ..
 of Salt Lake City FIRST Utah MIDDLE INITIAL LAST
 CITY OR TOWN STATE hereby assign
 to ... NPS PHARMACEUTICALS, INC. a
 Delaware corporation having a place of business
 at... Salt Lake City Utah
 and its successors and assigns (collectively hereinafter called "the Assignee"), the
 entire right, title and interest throughout the world in the inventions and Improve-
 ments which are the subject of an application for United States Patent ~~signed by me~~
 filed February 8, 1993 Serial No. 08/014,813
 this day, entitled COMPOUNDS ACTIVE AT A NOVEL SITE ON
 THE NMDA RECEPTOR-IONOPHORE COMPLEX USEFUL FOR TREATMENT OF
 NEUROLOGICAL DISORDERS

this assignment including said application, any and all United States and foreign
 patents granted for any of said inventions or improvements, and the right to claim
 priority based on the filing date of said application under the International Convention
 for the Protection of Industrial Property, the Patent Cooperation Treaty, the European
 Patent Convention, and all other treaties of like purposes; and I authorize the Assignee
 to apply in all countries in my name or in its own name for patents and like rights of
 exclusion and for inventor's certificates for said inventions and improvements; and I
 agree for myself and my heirs, legal representatives and assigns, without further
 compensation to perform such lawful acts and to sign such further applications,
 assignments, Preliminary Statements and other lawful documents as the Assignee
 may reasonably request to effectuate fully this assignment.

IN WITNESS WHEREOF, I hereto set my hand and seal at . Salt Lake City,
 ... Utah, this 18th day of May, 19 93....

Alan L. Mueller L.S.

STATE OF Utah FIRST Alan MIDDLE INITIAL L. LAST Mueller

COUNTY OF Salt Lake SS.

Before me this 18th day of May, 19 93, personally

appeared *Alan L. Mueller* known to me to be
 the person whose name is subscribed to the foregoing Assignment and acknowledged
 that he executed the same as his free act and deed for the purposes therein contained.

Suzanne J. Addison
Notary Public

My commission expires: 8-10-94

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